



## APPEALS PROCEDURE

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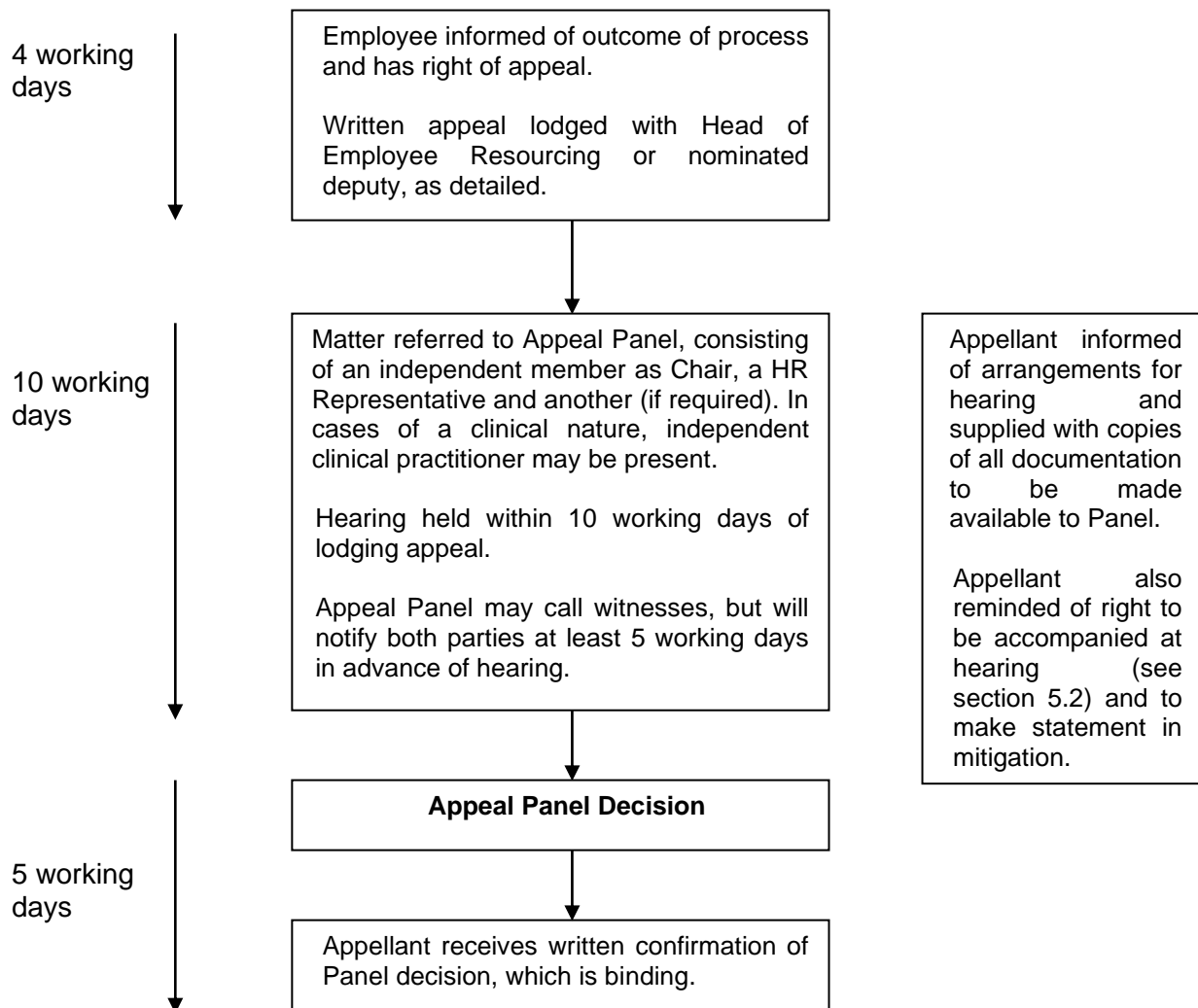
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## QUICK REFERENCE GUIDE

For quick reference the process pathway below is a summary of actions required. This does not negate the need for the document author and others involved in the process to be aware of and follow the detail of this policy.

### Process Pathway

The appeals procedure is summarised in the Process Pathway below:



## **1. INTRODUCTION**

- 1.1 In accordance with Sports Coaching Group procedures and with current legislation, there may be a requirement to convene an appeal hearing following decisions made at a formal meeting or hearing.

## **2. PURPOSE**

- 2.1 The purpose of this document is to provide a framework for holding appeal hearings within Sports Coaching Group
- 2.2 The predominant purpose of the appeal is to ensure that a fair hearing was given to employee during the original case and a fair and reasonable decision reached by the hearing panel.

## **3. SCOPE**

- 3.1 This document applies to all employees and workers of Sports Coaching Group.
- 3.2 The appeals procedure provides a mechanism for employees who believe that the outcome of a Panel decision or other management decision is wrong or unjust and for them to have an opportunity for the case to be reviewed. The appeal panel will need to establish whether Sports Coaching Group's procedures have been adhered to and that, in arriving at their decision, the panel acted fairly and reasonably based on:
  - A fair and thorough investigation of the issue(s);
  - Whether there was sufficient evidence arising from the investigation or assessment on which to base the decision;
  - Whether, in the circumstances, the decision was fair and reasonable, and commensurate with the evidence heard;
  - Compliance with Sports Coaching Groups Policies.
- 3.3 The Panel may also hear new evidence submitted by the employee and consider whether it might have significantly altered the decision of the original hearing. The Panel may also hear from original witnesses or new witnesses from either party, providing that their statements constitute new evidence.
- 3.4 The appeal, however, will not be a re-hearing of the entire case.

## **4. DEFINITIONS**

- 4.1 An appeal is defined as being a formal request to a higher authority requesting a change in, or confirmation of, a decision.
- 4.2 "Working days" referred to in this policy means Monday to Friday, excluding bank and public holidays.

## **5. DUTIES AND RESPONSIBILITIES**

### **Employees/appellants**

- 5.1 Should they wish to appeal against a management decision, employees/appellants are responsible for ensuring they comply with the requirements of this procedure at all times and behave in a professional and appropriate manner during all meetings or hearings to discuss their appeal.
- 5.1.7 5.2 Should an employee/appellant wish to be accompanied or represented at an appeal hearing, they will be responsible for arranging this for themselves, and should inform the Operational HR team of their representation. A list of staff representatives can be provided by the Operations Manager on request.

### **Managers**

- 5.3 Managers involved in appeals are responsible for ensuring they comply with the requirements of this procedure at all times, including providing written statements to the appeal panel in a timely manner.

### **The Appeal Panel**

- 5.4 The appeal panel is responsible for ensuring the appeal hearing is held in accordance with this procedure, including adherence to timescales. They are also responsible for agreeing amendments to the timescales where required.
- 5.5 The appeal panel is also responsible for ensuring the appeal hearing and any decision made is fair and reasonable.

### **Workforce and Human Resources Directorate**

- 5.6 The Operations Manager, be responsible for advising all parties on the operation of this procedure and for providing specific management and staff guidance.

## **6. PROCESS**

### **6.1 The Appeal Panel**

- 6.1.1 The appeal panel will consist of at least two members, both of whom will not have had any previous direct involvement in the matters that are the subject of the appeal. For example, they must not have acted as the Authorised Officer or HR Advisor to the previous panel. Membership will be as follows:

- An independent member designated as Chair/Authorised Officer;
- A Human Resources Representative or appropriate third party;

The panel may call on others to provide specialist advice, where considered appropriate. Where an appeal refers to clinical matters, the specialist should usually be an independent clinical practitioner.

- 6.1.2 All panel members should be suitably experienced or trained to be able to participate in an appeal hearing.

6.1.3 It is in the interests of all concerned that appeals are heard in a timely manner and as soon as possible after the original hearing. Wherever practicable, the following timetable will apply:

- Appeal by written statement submitted to the Operations Manager within **five working days** of the date of receipt of written confirmation of the original decision;
- Hearing to take place within a reasonable and appropriate time frame from date of receipt of appeal letter;
- Decision reported to the appellant and Sport Coaching Group. within five working days of the conclusion of the hearing;
- Any evidence submitted after the stated deadline may not be considered at the Appeal.

## **6.2 Powers of the Appeal Panel**

6.2.1 The appeal panel has the right to call witnesses where considered relevant and appropriate; however both the appellant and the management side must be notified at least five working days in advance of the hearing and be provided with a written statement from any such witnesses at the same time. Exceptionally, where during the course of the hearing the appeal panel determines that they need to hear the evidence of a witness not called by either party, they will have the power to adjourn the hearing to allow for a written statement to be obtained from the witness and made available to both parties prior to the resumption of the hearing.

6.2.2 If, during the course of the hearing the appeal panel determines that new evidence needs to be presented, they will consider whether an adjournment is appropriate: much will depend on the weight of the new evidence and its relevance. The appeal panel has the power to determine whether to consider the new evidence as relevant to the appeal, or whether the case should be reheard on the basis of the new evidence by an independent panel in accordance with the relevant policy.

## **6.3 Conduct of the Appeal Hearing**

6.3.1 Both parties should exchange all relevant documents, associated with the appeal prior to the commencement of the hearing. These should be exchanged through the Operations Manager to the panel no later than 5 working days prior to the date of the hearing.

6.3.2 The appellant will be informed of their right to be accompanied at the hearing by a companion. In addition to statutory rights under the [Employment Relations Act 1999](#) (see S.10), the companion may be another employee of Sportscape Leisure Ltd a Staff Representative or a representative of an Accredited Trade Union. Such a representative may be legally qualified but they will not, however, be representing the appellant formally in a legal capacity. The representative will be entitled to present a case on behalf of the appellant, address the Panel, question the management case and any witness.

6.3.3 Both parties will present their cases to the panel, the appellant presenting their case first, and will be subject to questioning by either party, as well as the panel. When all the evidence has been presented, both parties will provide a brief summary, which may not include any new information but the appellant (or their companion) may make a statement in mitigation and/or conclusion.

6.3.4 Following the statements and summaries from both parties, the hearing will adjourn to allow the panel to consider all the evidence and make their decision. During the adjournment or associated discussion, only panel members should be present. If any clarification is sought, all parties should be present.

## **6.4 The Decision**

- 6.4.1 The appeal panel has the authority to confirm or vary the original decision, or order that the case is reheard. Where it becomes clear during the course of the appeal hearing that the appropriate procedure has not been followed and the appeal panel determines that the case requires a full rehearing, the Chair of the panel will have the authority to instruct a new hearing in accordance with the relevant policy. A new and independent panel will be convened for this purpose.
- 6.4.2 Where the appeal is against dismissal, the dismissed employee will not be paid during the period of the appeal from the date of termination of employment. Should the appeal be upheld, the dismissed employee will normally be reinstated and will receive pay backdated to the date of the termination of their employment. Where the decision is to rehear the case, the dismissed employee will also normally be reinstated, subject to any conditions or restrictions in place at the time of the original hearing, and will receive pay backdated to the date of the termination of their employment.
- 6.4.3 The decision of the appeal panel should be communicated verbally prior to the end of the hearing wherever possible, and will then be confirmed in writing to the appellant and copied to the management side, within five working days of the conclusion of the hearing. The decision of the appeal panel is final and binding and there will be no further right of appeal. In exceptional circumstances the decision may be postponed for further consideration, although the reason for this will be communicated to the appellant at the hearing.

## **6.5 Action Following the Hearing**

- 6.5.1 Records, including a report detailing the issues, the employee's defence or mitigation, the action taken and the reasons for the action, will be kept of all appeal hearings. These records will remain confidential and will be retained in accordance with the GDPR Legislation 2018. Such records will be made available to those with a legitimate call upon them, such as the appellant, appropriate regulatory bodies, or in response to a Direction from an Employment Tribunal.

## **7. TRAINING REQUIREMENTS**

- 7.1 Appropriate training will be provided to managers in the application of this policy and particularly the principles to be adopted.
- 7.2 It is important that where a failure in standards of conduct or performance occurs because of a weakness in Sports Coaching Groups systems or processes, learning takes place across the business..
- 7.3 Guidelines for managers and staff will therefore be continually improved in the light of operational practice and experience.
- 7.4 Managers will ensure that the systems and processes that employees use or operate are designed to support good conduct. They will review these when concerns arise.

## **8. REFERENCES AND ASSOCIATED DOCUMENTATION**

Health and Safety Policy  
Recruitment Policy  
Planning Policy  
Holiday Policy  
Money Handling Policy

## **9. MONITORING COMPLIANCE WITH, AND THE EFFECTIVENESS OF, PROCEDURAL DOCUMENTS**

- 9.1 The Operations manager, will maintain statistics of all formal staff discipline issues and monitor trends to ensure employee relations statistics reflect the diversity of the workforce..
- 9.2 The policy will be reviewed on an annual basis by the Sports Coaching Group management.



## Appendix 1 – Suggested format for appeal hearings

### APPEAL HEARING

#### 1. Welcome and introductions -

**Panel** consists of:

[NAME (TITLE)] – Chair of the panel.

[NAME (TITLE)] – HR Advisor to panel.

[NAME (TITLE)] – Other – optional)

**Staff side** consists of:

[NAME AND JOB TITLE]

[NAME AND TYPE OF REPRESENTATIVE (if applicable)]

**Management side** consists of members of the original panel:

[NAME (TITLE)], Chair of the original panel, who will be presenting the management case

[NAME (TITLE)], HR Advisor to the original panel

[NAME] – Note-taker (if applicable)

2. If employee attends alone, check that [NAME] is happy to proceed without a TU or staff side representative or work colleague present.
3. Check that everyone has received a copy of the staff side case and management response
4. Does either side wish to call any witnesses or submit any further evidence today?

#### Purpose of hearing:

5. This is a formal appeal hearing, and its purpose is to consider all evidence submitted regarding appealing the decision made by the [Disciplinary / Capability / Other (specify)] panel on [DATE].
6. The appeal panel will NOT rehear the original case or consider actions taken outside of the original case. Only evidence that was not available at the initial hearing will be considered and this must have a direct bearing on the appeal.

#### Process to be followed:

7. Staff side will be invited to present their grounds for appeal first, and this will be followed by questions from management side and the panel. Staff side must present their case first as they need to advise on what grounds the appeal is based.
8. Management side will then be asked to respond and present their case, and this will be followed by questions from staff side and the panel.
9. Questions asked to the employee must be answered by them and not by their representative, if they bring one.
10. Anyone may request a break for consultation purposes at any time; and this request should be made via me as Chair of the panel.
11. Once both parties have presented their cases and questioning has taken place, both parties will be asked to sum up if they wish to.

12. The panel will call a final adjournment, and ask everyone to leave the room so that we can consider the evidence and make a decision on the appropriate way forward. Hopefully we will reach a decision today, but if we are unable to, we will advise you of the likely timescale when we will be able to reach a decision.
13. Once we have considered the evidence, everyone will be called back into the room, and I (*the Chairperson*) will advise you of the panel's decision. I (*the Chairperson*) will also confirm the outcome of the appeal hearing in writing to you within 5 working days.
14. Does everyone understand the process and is everyone happy to proceed?

Ask [NAME] to present the staff side case. (Followed by questions)

Ask [NAME] to present the management response. (Followed by questions)

Opportunity for both sides to sum up before calling an adjournment.

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Following the adjournment:

We have considered all the verbal and written evidence presented to day and we have deliberated and

**Either:** We have decided to uphold the decision made at the disciplinary hearing. The reason for this is that we have not heard anything substantial today for us to overturn the decision that was made. *[Give explanation for decision i.e. 'We considered xyz and felt that ...']*

**Or**

We have decided to overturn the decision made at the [CASE] on the basis of what we have heard today. The reason for this is [xyz].

**Or**

We have decided to defer our decision, until we are in receipt of further information (ie an up to date Occupational Health assessment.)

- Confirmation of this decision will be sent to you in writing within 5 working days.
- Do you have any further questions?
- Thank you for attending today.